

SOCIAL MEDIA MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kirk A. Cullimore

House Sponsor: _____

LONG TITLE**General Description:**

This bill changes when the provisions of the Utah Social Media Regulation Act become effective.

Highlighted Provisions:

This bill:

- delays the effective date for provisions of the Utah Social Media Regulation Act applicable to social media companies from March 1, 2024, to October 1, 2024.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

13-63-102, as enacted by Laws of Utah 2023, Chapter 498

13-63-103, as enacted by Laws of Utah 2023, Chapter 498

13-63-104, as enacted by Laws of Utah 2023, Chapter 498

13-63-105, as enacted by Laws of Utah 2023, Chapter 498

13-63-301, as enacted by Laws of Utah 2023, Chapter 498

13-63-401, as enacted by Laws of Utah 2023, Chapter 477

13-63-501, as enacted by Laws of Utah 2023, Chapter 477



Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-63-102** is amended to read:

13-63-102. Age requirements for use of social media platform -- Parental consent -- Rulemaking authority of division.

(1) Beginning ~~[March 1, 2024]~~ October 1, 2024, a social media company may not permit a Utah resident who is a minor to be an account holder on the social media company's social media platform unless the Utah resident has the express consent of a parent or guardian.

(2) Notwithstanding any provision of this chapter, a social media company may not permit a Utah resident who is a minor to hold or open an account on a social media platform if the minor is ineligible to hold or open an account under any other provision of state or federal law.

(3) (a) Beginning ~~[March]~~ October 1, 2024, a social media company shall verify the age of an existing or new Utah account holder and, if the existing or new account holder is a minor, confirm that a minor has consent as required under Subsection (1):

(i) for a new account, at the time the Utah resident opens the account; or

(ii) for a Utah account holder who has not provided age verification as required under this section, within 14 calendar days of the Utah account holder's attempt to access the account.

(b) If a Utah account holder fails to meet the verification requirements of this section within the required time period, the social media company shall deny access to the account:

(i) upon the expiration of the time period; and

(ii) until all verification requirements are met.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, with consideration of stakeholder input, shall make rules to:

(a) establish processes or means by which a social media company may meet the age verification requirements of this chapter;

(b) establish acceptable forms or methods of identification, which may not be limited to a valid identification card issued by a government entity;

(c) establish requirements for providing confirmation of the receipt of any information provided by a person seeking to verify age under this chapter;

(d) establish processes or means to confirm that a parent or guardian has provided

consent for the minor to open or use an account as required under this section;

(e) establish requirements for retaining, protecting, and securely disposing of any information obtained by a social media company or its agent as a result of compliance with the requirements of this chapter;

(f) require that information obtained by a social media company or its agent in order to comply with the requirements of this chapter are only retained for the purpose of compliance and may not be used for any other purpose;

(g) if the division permits an agent to process verification requirements required by this section, require that the agent have its principal place of business in the United States of America;

(h) require other applicable state agencies to comply with any rules promulgated under the authority of this section; and

(i) ensure that the rules are consistent with state and federal law, including Title 13, Chapter 61, Utah Consumer Privacy Act.

Section 2. Section **13-63-103** is amended to read:

13-63-103. Prohibition on data collection for certain accounts -- Prohibition on advertising -- Use of information -- Search results -- Directed content.

Beginning [~~March~~] October 1, 2024, a social media company, for a social media platform account held by a Utah minor account holder:

(1) shall prohibit direct messaging between the account and any other user that is not linked to the account through friending;

(2) may not show the account in search results for any user that is not linked to the account through friending;

(3) shall prohibit the display of any advertising in the account;

(4) shall not collect or use any personal information from the posts, content, messages, text, or usage activities of the account other than information that is necessary to comply with, and to verify compliance with, state or federal law, which information includes a parent or guardian's name, a birth date, and any other information required to be submitted under this section; and

(5) shall prohibit the use of targeted or suggested groups, services, products, posts, accounts, or users in the account.

Section 3. Section **13-63-104** is amended to read:

13-63-104. Parental access to social media account.

Beginning [~~March~~] October 1, 2024, a social media company shall provide a parent or guardian who has given parental consent for a Utah minor account holder under Section **13-63-102** with a password or other means for the parent or guardian to access the account, which shall allow the parent or guardian to view:

(1) all posts the Utah minor account holder makes under the social media platform account; and

(2) all responses and messages sent to or by the Utah minor account holder in the social media platform account.

Section 4. Section **13-63-105** is amended to read:

13-63-105. Limited hours of access for minors -- Parental access and options.

(1) Beginning [~~March~~] October 1, 2024, a social media company shall prohibit a Utah minor account holder from having access to the Utah minor account holder's account during the hours of 10:30 p.m. to 6:30 a.m., unless the access is modified according to another requirement of this section.

(2) Time of day under this section shall be calculated based on the Internet protocol address being used by the Utah minor account holder at the time of attempting access.

(3) A social media company shall provide options for a parent or guardian with access to an account under Section **13-63-104** to:

(a) change or eliminate the time-of-day restriction described in Subsection (1); and

(b) set a limit on the number of hours per day that a Utah minor account holder may use the account.

(4) A social media company shall not permit a Utah minor account holder to change or bypass restrictions on access as required by this section.

(5) Notwithstanding any provision of this section, a social media company shall permit a parent or guardian with access to an account under Section **13-63-104** to access the account without time restrictions.

Section 5. Section **13-63-301** is amended to read:

13-63-301. Private right of action.

(1) Beginning [~~March~~] October 1, 2024, a person may bring an action against a person

that does not comply with a requirement of Part 1, General Requirements.

(2) A suit filed under the authority of this section shall be filed in the district court for the district in which a person bringing the action resides.

(3) If a court finds that a person has violated a provision of Part 1, General Requirements, the person who brings an action under this section is entitled to:

(a) an award of reasonable attorney fees and court costs; and

(b) an amount equal to the greater of:

(i) \$2,500 per each incident of violation; or

(ii) actual damages for financial, physical, and emotional harm incurred by the person bringing the action, if the court determines that the harm is a direct consequence of the violation or violations.

Section 6. Section **13-63-401** is amended to read:

13-63-401. Social media platform design regulations -- Enforcement and auditing authority -- Penalties.

(1) Beginning ~~[March]~~ October 1, 2024:

(a) the division shall administer and enforce the provisions of this section; and

(b) the division may audit the records of a social media company in order to determine compliance with the requirements of this section or to investigate a complaint, including a random sample of a social media company's records and other audit methods.

(2) Beginning ~~[March]~~ October 1, 2024, a social media company shall not use a practice, design, or feature on the company's social media platform that the social media company knows, or which by the exercise of reasonable care should know, causes a Utah minor account holder to have an addiction to the social media platform.

(3) Beginning ~~[March]~~ October 1, 2024:

(a) Subject to Subsection (3)(b), a social media company is subject to:

(i) a civil penalty of \$250,000 for each practice, design, or feature shown to have caused addiction; and

(ii) a civil penalty of up to \$2,500 for each Utah minor account holder who is shown to have been exposed to the practice, design, or feature found to have caused addiction under Subsection (3)(a)(i).

(b) A social media company shall not be subject to a civil penalty for violating this

section if the social media company, as an affirmative defense, demonstrates that the social media company:

(i) instituted and maintained a program of at least quarterly audits of the social media company's practices, designs, and features to detect practices, designs, or features that have the potential to cause or contribute to the addiction of a minor user; and

(ii) corrected, within 30 days of the completion of an audit described in Subsection (3)(b)(i), any practice, design, or feature discovered by the audit to present more than a de minimus risk of violating this section.

(c) In a court action by the division to enforce this section, the court may, in addition to a civil penalty:

(i) declare that the act or practice violates a provision of this section;

(ii) issue an injunction for a violation of this section;

(iii) award actual damages to an injured purchaser or consumer; and

(iv) award any other relief that the court deems reasonable and necessary.

(4) Nothing in this section may be construed to impose liability for a social media company for any of the following:

(a) content that is generated by an account holder, or uploaded to or shared on the platform by an account holder, that may be encountered by another account holder;

(b) passively displaying content that is created entirely by a third party;

(c) information or content for which the social media company was not, in whole or in part, responsible for creating or developing; or

(d) any conduct by a social media company involving a Utah minor account holder who would otherwise be protected by federal or Utah law.

(5) If a court of competent jurisdiction grants judgment or injunctive relief to the division, the court shall award the division:

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

(6) Nothing in this section may be construed to negate or limit a cause of action that may have existed or exists against a social media company under the law as it existed before the effective date of this section.

(7) All money received for the payment of a fine or civil penalty imposed under this section shall be deposited into the Consumer Protection Education and Training Fund established in Section 13-2-8.

Section 7. Section 13-63-501 is amended to read:

13-63-501. Private right of action for harm to a minor -- Rebuttable presumption of harm and causation.

(1) Beginning ~~[March]~~ October 1, 2024, a person may bring an action under this section against a social media company to recover damages incurred after ~~[March]~~ October 1, 2024 by a Utah minor account holder for any addiction, financial, physical, or emotional harm suffered as a consequence of using or having an account on the social media company's social media platform.

(2) A suit filed under the authority of this section shall be filed in the district court for the district in which the Utah minor account holder resides.

(3) Notwithstanding Subsection (4), if a court finds that a Utah minor account holder has been harmed as a consequence of using or having an account on the social media company's social media platform, the minor seeking relief under this section is entitled to:

(a) an award of reasonable attorney fees and court costs; and

(b) an amount equal to the greater of:

(i) \$2,500 per each incident of harm; or

(ii) actual damages for addiction, financial, physical, and emotional harm incurred by the person bringing the action, if the court determines that the harm is a direct consequence of the violation or violations.

(4) If a Utah minor account holder seeking recovery of damages under this section is under the age of 16, there shall be a rebuttable presumption that the harm actually occurred and that the harm was caused as a consequence of using or having an account on the social media company's social media platform.

Section 8. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.